

## SENATE BILL NO. 18

INTRODUCED BY J. O'NEIL

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

A BILL FOR AN ACT ENTITLED: "AN ACT SUPPORTING THE POLICIES CONTAINED IN ARTICLE II, SECTION 12, OF THE MONTANA CONSTITUTION AND THE OPENING CLAUSE OF SECTION 10-3-101, MCA, BY PROVIDING THAT UNLESS THE PERSON REQUESTS OTHERWISE, WHEN A PERSON APPLIES FOR A DRIVER'S LICENSE OR IDENTIFICATION CARD, THE DEPARTMENT OF JUSTICE SHALL CARRY OUT OR REQUEST A FEDERAL GOVERNMENT AGENCY TO CARRY OUT THE CRIMINAL BACKGROUND CHECK REQUIRED BY FEDERAL LAW FOR THE TRANSFER OF A FIREARM; PROVIDING THAT IF THE BACKGROUND CHECK INDICATES THAT POSSESSION OF A FIREARM BY THE PERSON WOULD NOT BE IN VIOLATION OF LAW, THE DEPARTMENT SHALL INDICATE ON THE DRIVER'S LICENSE OR IDENTIFICATION CARD THAT THE BACKGROUND CHECK HAS BEEN CARRIED OUT AND THAT THE PERSON IS ENTITLED TO BE SOLD OR OTHERWISE TRANSFERRED A FIREARM WITHOUT THE PERFORMANCE OF A BACKGROUND CHECK AT THE TIME OF SALE OR OTHER TRANSFER; MAKING THE ILLEGAL USE OF THE CERTIFICATION A CRIMINAL OFFENSE; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Driver's license or identification card application criminal background check for firearm purchase.** (1) Unless the person requests otherwise, when a person applies for a driver's license or for an identification card under chapter 12, part 5, of this title, the department shall carry out or request a federal government agency to carry out the criminal background check that is required by 18 U.S.C. 922 for the transfer of a firearm. If the background check indicates that possession of a firearm by the person would not be in violation of law, the department shall indicate on the driver's license or identification card that the background check has been carried out and that the person is entitled to purchase or otherwise take possession or ownership of a firearm.

(2) If a person with a driver's license containing the certification provided for in subsection (1) wishes the certification to extend beyond the 5-year period provided for in 18 U.S.C. 922 for a permit issued by a state, the person may, at least 30 days prior to the expiration of the 5-year period following

1 the date of issuance of the license and upon payment of a \$5 fee, request that another background check  
2 be carried out. If the person passes the background check and remains eligible for a license, the  
3 department shall issue the person a replacement license that expires on the anniversary of the person's  
4 birthday 8 years or less after the date of the issuance of the original replaced license. The department  
5 shall indicate on the replacement license that the background check has been carried out and that the  
6 person is entitled to purchase or otherwise take possession or ownership of a firearm.

7 (3) A background check is not required and may not be performed when a firearm is sold or  
8 otherwise transferred to a person certified under this section.

9 (4) If the department receives proof that a person certified under this section is no longer entitled  
10 to purchase or otherwise take possession or ownership of a firearm, the department shall revoke the  
11 person's license and, upon payment of a \$5 fee by the person, issue the person a replacement license that  
12 does not contain the certification if the person is eligible for licensure.

13 (5) (a) A person certified under this section who knows that the person has become ineligible to  
14 purchase or otherwise take possession or ownership of a firearm may not use the driver's license or  
15 identification card to avoid a background check and shall within 5 days of gaining that knowledge inform  
16 the department of the facts making the person ineligible. The department shall revoke the person's license  
17 or card and, upon payment of a \$5 fee by the person, issue the person a replacement license or card that  
18 does not contain the certification if the person is eligible for licensure.

19 (b) A person who knows that the person has become ineligible to purchase or otherwise take  
20 possession or ownership of a firearm and knowingly fails to notify the department as required by this  
21 section or uses the driver's license or identification card to avoid a background check commits the criminal  
22 offense of illegal possession or use of a driver's license or identification card with a criminal background  
23 check certification and upon conviction shall be fined an amount not to exceed \$1,000, incarcerated for  
24 a term not to exceed 6 months, or both.

25  
26 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
27 integral part of Title 61, chapter 5, and the provisions of Title 61 apply to [section 1].

28  
29 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2001.

1        NEW SECTION. **Section 4. Contingent termination.** [This act] terminates on the date that the  
2        governor certifies in writing to the attorney general that federal law no longer requires the background  
3        check referred to in [this act].

4 - END -